

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
)	
ALLTEL Communications, Inc.)	DA 03-3824
Petition for Designation as an Eligible)	
Telecommunications Carrier in the State of)	
North Carolina)	
)	
)	
ALLTEL Communications, Inc.)	DA 03-3825
Petition for Designation as an Eligible)	
Telecommunications Carrier in the State of)	
Georgia)	

REPLY COMMENTS OF ALLTEL COMMUNICATIONS, INC.

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REPLY COMMENTS OF ALLTEL COMMUNICATIONS, INC.

ALLTEL Communications, Inc. (“ALLTEL”), pursuant to the Commission’s public notices,¹ replies to comments filed by the National Association of State Utility Consumer Advocates (“NASUCA”), the Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”) and Verizon in opposition to ALLTEL’s applications for designation as an Eligible Telecommunications Carrier (“ETC”) in the states of North Carolina (“North Carolina Petition”) and Georgia (“Georgia Petition”) (collectively,

¹ FCC Public Notice, *Wireline Competition Bureau Seeks Comment on ALLTEL Communications, Inc. Petition For Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Pleading Cycle Established*, CC Docket No. 96-45, DA 03-3824 (Nov. 26, 2003); FCC Public Notice, *Wireline Competition Bureau Seeks Comment on ALLTEL Communications, Inc. Petition For Designation as an Eligible Telecommunications Carrier in the State of Georgia; Pleading Cycle Established*, CC Docket No. 96-45, DA 03-3825 (Nov. 26, 2003). The notices were published in the Federal Register on December 31, 2003, inviting interested parties to file comments on January 12, 2004, and reply comments on January 26, 2004. 68 Fed. Reg. 75562 (Dec. 31, 2003); 68 Fed. Reg. 75563 (Dec 31, 2003).

“Petitions”).² The opposing comments (collectively, “Oppositions”) provide no compelling reason to deny or delay consideration of ALLTEL’s Petitions. Accordingly, the Commission should expeditiously grant the Petitions.

I. INTRODUCTION AND SUMMARY.

The ALLTEL family of companies provides diversified telecommunications services, including local exchange service, interexchange service and wireless services. ALLTEL is currently both a recipient of universal service support as a local exchange carrier (“LEC”) and a contributor to universal service funding as an interexchange carrier and wireless carrier. Consequently, ALLTEL has a number of perspectives on the complex funding needs of carriers serving high-cost areas. ALLTEL affiliates encompass both rural and incumbent LECs (“ILECs”), as well as its wireless service operators. In fact, some of the rural areas in North Carolina and Georgia that would be covered by the Petitions are served by its wireline affiliates. In view of this broad-based experience, ALLTEL, after full consideration of all aspects of the impact of ETC designations on universal service support and competition, has concluded that the public interest would be well served by its designation as an ETC in North Carolina and Georgia.

The Oppositions raise no new arguments that have not already been raised and addressed in other ALLTEL ETC proceedings. Verizon simply attached a copy of the comments that it filed in response to ALLTEL’s petition for designation as an ETC in Virginia. The Oppositions

² Application of ALLTEL Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the State of North Carolina, *Application of ALLTEL Communications, Inc. For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act of 1934*, CC Docket No. 96-45 (Aug. 26, 2003); Application of ALLTEL Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Georgia, *Application of ALLTEL Communications, Inc. For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act of 1934*, CC Docket No. 96-45 (Aug. 26, 2003), amended September 15, 2003, Amendment to Application of ALLTEL Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Georgia, *Application of ALLTEL Communications, Inc. For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act of 1934*, CC Docket No. 96-45 (Sept. 15, 2003).

are couched as selfless attempts to protect the public interest in a reasonable and sustainable universal service support program. In reality, they distort the objectives and purposes of the universal service support program and the pro-competitive policies established in the Communications Act of 1934, as amended (the “Act”). The Oppositions ignore the public interest benefits of wireless and local service competition, such as larger local calling areas, a variety of calling plans, the health and safety benefits of wireless, mobile services in isolated areas, and, of course, the competitive opportunities that ETC designations are intended to provide. Verizon’s arguments are facially invalid and misstate precedent (as discussed in Part III *infra*), and its opposition is no more than an attempt to delay consideration of the Petitions.³

The Oppositions also ignore well established precedent governing ETC petitions. The Commission is committed to resolving ETC petitions quickly so that the benefits reaped from ETC designations are not unduly delayed. Instead, the Oppositions seek to delay grant of ALLTEL’s Petitions in order to protect the universal service subsidies received by ILECs. The Oppositions also raise multiple collateral arguments that are not relevant to the instant proceeding and that should be rejected by the Commission. Accordingly, ALLTEL urges the Commission to grant the Petitions expeditiously.

³ ALLTEL addressed Verizon’s arguments in its reply comments in that proceeding. See Reply Comments of ALLTEL Communications, Inc., *ALLTEL Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia*, ALLTEL Communications, Inc. *Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, CC Docket No. 96-45, DA Nos. 03-1881, 03-1882 (July 14, 2003) (“Virginia-Alabama Reply”). Accordingly, a copy of ALLTEL’s Virginia-Alabama Reply is attached as Exhibit A. Verizon also filed the same comments in opposition to six of Sprint’s applications for ETC status. Sprint pointed out that Verizon’s claims are completely unsubstantiated and without merit. A copy of Sprint’s response to Verizon’s opposition is attached as Exhibit B.

II. STAYING CONSIDERATION OF ALLTEL’S PETITIONS UNTIL THE JOINT BOARD HAS CONCLUDED ITS REVIEW OF THE ETC DESIGNATION PROCESS WOULD CONSTITUTE LEGAL ERROR AND DISSERVE THE PUBLIC INTEREST.

Verizon and OPASTCO urge the Commission to stay consideration of ALLTEL’s Petitions until the pending Federal-State Joint Board on Universal Service deliberations on ETC designation procedures and the distribution of universal service support to ETCs (“*Joint Board Review*”)⁴ is concluded.⁵ This argument has been voiced many times over by rural ILECs in an attempt to delay consideration of ETC-related petitions. As ALLTEL explained in its Virginia-Alabama Reply, which is attached hereto as Exhibit A, the Commission has repeatedly rejected this argument.⁶ The *Joint Board Review* addresses issues of general *future* applicability that are outside the scope of the instant proceedings. The prospect of future changes cannot delay consideration of ALLTEL’s narrow requests to be designated under *today’s* existing rules as an ETC in North Carolina and Georgia.⁷ Furthermore, the recent issuance of the *Virginia Cellular* order stands as a *de facto* rejection of all of these procedural arguments and reflects a recognition that ETC petitions can be addressed before the *Joint Board Review* concludes.⁸

⁴ *Federal-State Joint Board on Universal Service*, Order, 17 FCC Rcd 22642 (2002); FCC Public Notice, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, 18 FCC Rcd 1941 (2003) (collectively, “*Joint Board Review*”).

⁵ See Verizon Comments at 8-10; OPASTCO Comments at 3-5.

⁶ Virginia-Alabama Reply at 4-7, attached hereto as Exhibit A.

⁷ OPASTCO’s claim that “until these [universal service] issues are resolved, it remains unclear how the Commission should evaluate whether or not the designation of an additional ETC would serve the public interest in any given rural service area” is misleading and false. OPASTCO Comments at 4. Section 214 of the Act and the Commission’s rules clearly set forth how the Commission evaluates ETC-designation requests. ALLTEL demonstrates in the Petitions that it fully satisfies the requirements of Section 214 and the Commission’s current rules for ETC status in North Carolina and Georgia.

⁸ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, FCC 03-338, CC Docket No. 96-45 (rel. Jan. 22, 2004) (“*Virginia Cellular*”). ALLTEL is reviewing the *Virginia Cellular* case and reserves the right to

NASUCA also asserts that if the Commission grants the Petitions prior to the conclusion of the *Joint Board Review*, any new or modified ETC rules and procedures adopted by the Commission should be binding on ALLTEL.⁹ As ALLTEL specifically recognized in its Virginia-Alabama Reply, any changes to the Commission’s ETC rules will be applied to it and all other ETCs at that time.¹⁰

Verizon’s and OPASTCO’s concern regarding the growth of the high-cost fund due to wireless carriers receiving ETC status also is misplaced.¹¹ ALLTEL previously addressed this concern in the attached Virginia-Alabama Reply. As explained therein, such “concern” seems to be motivated more by the desire of rural ILECs to prevent competitive carriers from receiving high-cost support for the provision of alternative services in high-cost areas than by any public interest concern over the size of the fund.¹² The Oppositions thus provide no persuasive reason why the Commission should stay consideration of the Petitions pending the conclusion of the *Joint Board Review*.

III. VERIZON’S POLICY ARGUMENTS THAT DESIGNATING ALLTEL AS AN ETC THREATENS THE ACCESS CHARGE REGIME ARE WITHOUT MERIT AND SELF-SERVING.

Verizon argues that because the interstate access support fund is capped at \$650 million under the *CALLS Order*,¹³ designation of more wireless ETCs will siphon off ever greater

supplement the record if necessary in light of the Commission’s newly articulated public interest analysis for ETC designations.

⁹ NASUCA Comments at 2.

¹⁰ Virginia-Alabama Reply at 7, attached hereto as Exhibit A.

¹¹ Verizon Comments at 3-7; OPASTCO Comments at 3-4.

¹² Virginia-Alabama Reply at 8-9, attached hereto as Exhibit A.

¹³ *Access Charge Reform*, 15 FCC Rcd 12962 (2000) (“*CALLS Order*”), *aff’d in part, rev’d and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001).

portions of the fund from the intended beneficiaries, namely, the price cap LECs.¹⁴ ALLTEL, however, refuted this claim in its Virginia-Alabama Reply.¹⁵ As explained therein, ILECs do not have exclusive right to universal service support that supersedes any other consideration. Rather, the *CALLS Order* explicitly recognized that the interstate access fund is portable to other ETCs, including wireless ETCs, thereby possibly diminishing the support received by price cap LECs such as Verizon. Verizon's predecessors, which were members of the coalition proposing the CALLS plan, endorsed the portability of this support:

The CALLS plan further promotes competition through the establishment of a portable \$650 million rural and high cost universal service fund. For the first time, *entrants will be able to compete for and receive support that previously went only to the incumbent LEC through implicit support*. All eligible telecommunications carriers will receive universal service support when they win and serve a customer in a more costly rural area. The 1996 Act envisioned that consumers in all parts of the country would be able to have a choice of telecommunications provider. The CALLS plan brings that vision a significant step closer to reality.¹⁶

Verizon, a proponent of the portability of universal service support, cannot object to such portability now that it has secured the benefits of the CALLS plan.

In addition to the reasons set forth in ALLTEL's Virginia-Alabama Reply, Verizon's arguments regarding the stability of the access charge regime should be rejected because Verizon ignores the fact that competitive ETCs, including wireless carriers, face higher costs in areas with low population density, relative to high density areas. Competitive ETCs are thus provided with the means to recover those costs through the universal service mechanism. To deny support

¹⁴ Verizon Comments at 2, 5-8.

¹⁵ Virginia-Alabama Reply at 10-13, attached hereto as Exhibit A.

¹⁶ Comments of the Coalition for Affordable Local and Long Distance Services (CALLS), CC Docket Nos. 94-1, 96-45, 96-262, 99-249, at 10 (Nov. 12, 1999) (emphasis added).

to competitive ETC's such as ALLTEL would violate the Act's principle of competitive neutrality.¹⁷

Verizon also mistakenly assumes that it has a right to fully recover its fixed costs through the access charge regime.¹⁸ Price cap carriers, however, are not guaranteed the recovery of their costs and a set rate of return. Rather, the Commission adopted rules and policies to give price cap carriers incentives to operate efficiently, and thus lower costs, by allowing them to increase profits through greater demand and higher efficiency and putting them at risk if demand decreases.¹⁹ Any diminishment of support to Verizon due to the entry of competitive ETCs is inherent in the structure of the price cap system. To accept Verizon's claims would punish competitive carriers for operating efficiently and reward the inefficient operation of incumbent carriers. Verizon's arguments are without merit and are no more than an attempt to maintain its stranglehold on universal service funds through the access charge regime. Accordingly, Verizon shows no reason to deny or delay consideration of the Petitions.

IV. DESIGNATING ALLTEL AS AN ETC IN NORTH CAROLINA AND GEORGIA SERVES THE PUBLIC INTEREST.

Pursuant to Section 214(e) of the Act, carriers seeking ETC status must show that such designation serves the public interest.²⁰ With regard to the non-rural study areas in which

¹⁷ See *Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 622 (5th Cir. 2000) (“[P]ortability is not only consistent with [the statutory requirement of] predictability, but also is dictated by the principles of competitive neutrality and the statutory command [of]...47 U.S.C. § 254(e).”); see also *Western Wireless Corp. Petition for Preemption of Statutes and Rules Regarding the Kansas State Universal Service Fund Pursuant to Section 253 of the Communications Act of 1934*, 15 FCC Rcd 16227, 16231 (2000) (recognizing that a competitive ETC faces a significant barrier to entry if it is denied universal service support that is received by the incumbent).

¹⁸ Verizon Comments at 7.

¹⁹ *CALLS Order*, 15 FCC Rcd at 12968-69; *Access Charge Reform*, Order on Remand, 18 FCC Rcd 14976, 14978 (2003).

²⁰ 47 U.S.C. § 214(e).

ALLTEL seeks ETC status, the Petitions demonstrated that ALLTEL complies with the eligibility obligations of Section 214(e)(1) and that its designation in these areas serves the public interest. Moreover, contrary to OPASTCO's and NASUCA's assertions, ALLTEL demonstrated in its Petitions that its designation as an ETC in North Carolina's and Georgia's rural areas also serves the public interest.²¹

A. ALLTEL Has Committed To Provide All Services Supported By the Universal Service Mechanism.

Pursuant to Section 214(e)(1)'s eligibility obligations, ALLTEL committed in the Petitions to provide all services supported by the universal service mechanism when it receives ETC status and committed to advertise the availability of such services.²² In fact, none of the Oppositions challenge ALLTEL's assertions that it meets these obligations. Furthermore, the Petitions demonstrated that designating ALLTEL as an ETC in North Carolina and Georgia would promote competition, increase the number of service choices and plans available to consumers, promote higher quality of service, lower rates, and protect the public's health and welfare.²³ The Petitions therefore should be granted as to the non-rural portions of the North Carolina and Georgia study areas covered by the Petitions.²⁴

ALLTEL previously requested that the Commission consider the non-rural areas covered by the Petitions separately from, and in advance of, the rural areas if bifurcation would facilitate the Commission's review.²⁵ Thus, if the public interest issues raised by the rural aspects of the

²¹ See *supra* note 8.

²² North Carolina Petition at 4-9; Georgia Petition at 3-8.

²³ North Carolina Petition at 13-16; Georgia Petition at 13-15.

²⁴ See *supra* note 8.

²⁵ See Letter from Cheryl A. Tritt, Counsel, ALLTEL Communications Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission CC Docket No 96-45 (Nov. 10, 2003) (regarding ALLTEL Communications Inc., Petitions for Designation as an Eligible Telecommunications Carrier).

Petitions will take significantly longer to resolve than the eligibility requirements as to the non-rural areas, ALLTEL requests that the Commission decide the latter in separate orders addressing only the non-rural ILEC study areas or partial study areas pending its consideration of the rural areas. As the Commission reaffirmed in *Virginia Cellular*, the public interest showing required for ETC applications in non-rural study areas remains less stringent than the showing required for rural areas.²⁶ Bifurcated treatment will raise no additional issues requiring further comment, nor will it pose any administrative or implementation difficulties.

B. ALLTEL's Designation As An ETC Will Promote Competition In Rural Markets.

Section 214(e)(6) of the Act requires an additional public interest showing by competitive carriers seeking ETC status in rural areas. To satisfy this showing, ALLTEL described in its Petitions the many consumer benefits that would result from its designation as an ETC. One important benefit is the promotion of competition, which results in: (1) greater consumer choices for telecommunications services, (2) promotion of higher quality services, (3) lower rates, (4) deployment of new technologies, and (5) greater opportunity for consumers to select a telecommunications provider based upon quality of service, availability of service, and rates. OPASTCO, however, considers these benefits “vague generalities” not worthy of a public interest finding.²⁷

To the contrary, the Commission has repeatedly found the same benefits to satisfy the public interest requirement, particularly when carriers seek ETC status in rural areas. For example, in *RCC Holdings* and *Cellular South*, the Commission concluded that public interest showings similar to those ALLTEL has made in the Petitions satisfy the “threshold demonstration that [the petitioner's] service offering fulfills several of the underlying federal

²⁶ *Virginia Cellular* at ¶ 27.

²⁷ OPASTCO Comments at 5-6.

policies favoring competition and the provision of affordable telecommunications service to consumers.”²⁸ To consider these benefits mere generalities disparages the Commission’s and the industry’s efforts to ensure that all consumers have access to reasonable and affordable telecommunications services.

Increased competition in local markets, including rural areas, was an overarching Congressional goal when it adopted the Telecommunications Act of 1996.²⁹ Congress specifically adopted Sections 214 and 254 of the Act to ensure that rates for telecommunications services in rural areas are comparable to the less expensive, more affordable rates in urban areas.³⁰ Competition is one way in which rates for services are kept reasonable. Just as competition in urban areas drives rates down and encourages carriers to continuously improve

²⁸ See *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Areas in the State of Alabama*, 17 FCC Rcd 23532, 23540 (WCB 2002) (“*RCC Holdings*”); *Cellular South License, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, 17 FCC Rcd 24393, 24402 (WCB 2002) (“*Cellular South*”).

²⁹ The purpose of the Telecommunications Act of 1996 is “to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition. . . .” Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. at 113 (Joint Explanatory Statement).

³⁰ 47 U.S.C. §§ 214, 254.

services and upgrade facilities, competition in rural areas has a similar effect, and designating competitive ETCs in rural areas facilitates such competition. Furthermore, the Commission has previously recognized the benefit of wireless services competing against wireline services.³¹ Contrary to NASUCA's assertion,³² these competitive benefits also will exist where ALLTEL's wireless operations compete against its wireline operations.³³ Consumers are benefited by the additional choices among alternative service plans, packages and technology that ALLTEL's wireless service competition provides, irrespective of the identity of the ILEC providing wireline services.

Rural ILECs have long enjoyed a competitive advantage over all other carriers by receiving universal service subsidies. ALLTEL's designation as an ETC will put it on an equal footing with the rural ILECs in North Carolina and Georgia, and it will be able to compete more effectively against them.³⁴ As a result, the public will reap the benefits from that competition.

³¹ See, e.g., *Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48 (2000) (determining that grant of ETC status to a cellular company in Wyoming enhances competition).

³² NASUCA Comments at 4.

³³ The fact that ALLTEL seeks to redefine partially served rural ILEC study areas has no bearing on the competitive benefits that will be derived from designating it as an ETC in North Carolina and Georgia. OPASTCO Comments at 6. Wireless carriers such as ALLTEL are licensed by cellular market areas ("CMAs"), which typically differ in size and have different boundary lines from rural ILEC study areas. The Commission has previously determined that to require competitive ETCs such as wireless carriers to serve the entire study area of a rural ILEC is anti-competitive and not in the public interest. *RCC Holdings*, 17 FCC Rcd at 23547-49; *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8879-80 (1997).

³⁴ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15506-07 (1996) (subsequent history omitted).

C. ALLTEL's Designation As An ETC Also Will Benefit The Public In Rural Areas In Numerous Other Ways.

As ALLTEL explained in the Petitions, other benefits, unavailable from the incumbent rural telephone companies, also will result from its designation as an ETC in North Carolina and Georgia. For example, ALLTEL's local calling areas in most, if not all, cases will be larger than those of the LECs.³⁵ As a result, customers calling within ALLTEL's service area will not be subjected to toll charges that they would otherwise incur when calling outside the wireline carriers' local service areas. ALLTEL also will provide consumers with the choice of multiple calling plans, such as plans with wide area calling and national rate plans, which are typically not offered by the incumbents.³⁶ In granting other petitions for ETC status, the Commission previously emphasized such public interest considerations, stating that "rural consumers may benefit from expanded local calling areas and an offering of a variety of calling plans."³⁷

Furthermore, the mobility of wireless services provides an especially significant public benefit in rural areas because it protects the public's health and welfare and likely will save lives.³⁸ People in rural areas often work in secluded locations, such as farms, and drive long distances through remote areas that lack accessible wireline telephones. If a farmer tending his fields is injured, or a motorist becomes stranded, they would be able to call for help using their mobile telephones. Many low income residents in rural areas, however, are unable to obtain wireless service without Lifeline service. Because ALLTEL cannot provide Lifeline service

³⁵ North Carolina Petition at 15; Georgia Petition at 15.

³⁶ North Carolina Petition at 15; Georgia Petition at 15.

³⁷ *RCC Holdings*, 17 FCC Rcd at 23541.

³⁸ See, e.g., *Smith Bagley, Inc.*, Order, Decision No. 63269, Docket No. T-02556A-99-0207 at 12 (Arizona PSC 2001) (concluding that designating a cellular company as an ETC is a potential solution to "health and safety risks associated with geographic isolation"). The Commission has long recognized the benefits of wireless services to the public's health and welfare. For example, the Commission has adopted rules to improve the effectiveness and reliability of wireless emergency 911 services. 47 C.F.R. § 20.18.

unless it is designated as an ETC, consumers may not be able to take advantage of wireless technology unless and until ALLTEL receives ETC status.³⁹

ALLTEL demonstrated in the Petitions that the public will benefit from its designation as an ETC and that such benefits far outweigh any costs that may result from such designation. OPASTCO expresses vague concerns as to the “cost” of ETC designations, but fails to identify any “cost” that may harm customers, much less provide any evidence that the cost outweighs the benefits consumers will enjoy from ALLTEL’s ETC designations.⁴⁰ Furthermore, the requirement that universal service funding be used only “for the provision, maintenance, and upgrading of facilities and services for which the support is intended”⁴¹ should prevent non-economic entry of competitive ETCs in rural markets. Thus, the Commission can rely on the market to determine whether multiple ETCs can be “supported” in a rural area, rather than arbitrarily limiting the number of ETCs in advance, as the Oppositions advocate.⁴² Finally, NASUCA’s assertion that ALLTEL’s ETC designation offers no competitive benefits where its wireless operations compete with its wireline affiliates is irrelevant to the other public interest benefits discussed above, such as protecting the public’s health and welfare.⁴³ NASUCA does not claim, nor could it claim, that such public interest benefits will be reduced where ALLTEL’s wireless ETC operations happen to overlap with its own wireline operations.

³⁹ 47 C.F.R. §§ 54.400-54.415. Although a carrier may not necessarily provide the supported services at the time it seeks ETC status, it may “make a reasonable demonstration...of its capability and commitment to provide universal service without the actual provision of the proposed service.” See *Western Wireless Corp. Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, 15 FCC Rcd 15168, 15178 (2000).

⁴⁰ OPASTCO Comments at 6.

⁴¹ 47 C.F.R. § 54.314(a).

⁴² OPASTCO Comments at 6; see also NASUCA Comments at 3-4.

⁴³ NASUCA Comments at 4.

D. The Commission Should Disregard NASUCA’s Recommendations To Impose Additional “Public Interest” Requirements On ALLTEL.

The Commission should disregard NASUCA’s suggestion that the Commission apply additional new factors to ALLTEL’s petition in the name of the “public interest.” Specifically, NASUCA recommends that the Commission require any competitive ETC to offer an unlimited local calling plan and a monthly rate comparable to that charged by the ILEC, submit to certain consumer protection rules applicable to ILECs, provide data demonstrating its need for high-cost support, provide service to all requesting customers within a certain period of time, and to provide equal access.⁴⁴ NASUCA also suggests that the Commission utilize certain benchmarks to ascertain whether a rural market can support multiple ETCs.⁴⁵

Most of these suggested additional factors were either explicitly or implicitly rejected last week in *Virginia Cellular*. The Commission explicitly reaffirmed that it is sufficient for a wireless ETC to “offer minimum local usage as part of its universal service offering.”⁴⁶ The Commission endorsed Virginia Cellular’s commitments to include a variety of local usage plans and plans including a large volume of minutes.⁴⁷ That is precisely the local calling offering that ALLTEL set forth in the Petitions. NASUCA’s insistence that wireless ETCs offer the same types of calling options that wireline carriers offer would diminish the public interest benefits of wireless offerings by reducing the total range of alternatives available to consumers.

Similarly, the Commission explicitly rejected a requirement that wireless ETCs provide equal access to interexchange carriers, finding that “access to interexchange services” is sufficient.⁴⁸ Like NASUCA’s suggestion that wireless ETCs offer unlimited local calling, its

⁴⁴ NASUCA Comments at 3.

⁴⁵ *Id.* at 3-4.

⁴⁶ *Virginia Cellular* at ¶ 20.

⁴⁷ *Id.*

⁴⁸ *Id.* at ¶ 21.

proposal for an equal access requirement would undermine the unique public benefits of wireless offerings by forcing wireless ETCs to copy the services of wireline carriers, thereby reducing the range of consumer choices. NASUCA's suggested additional requirement of consumer protection rules that typically apply to only ILECs should be rejected for the same reason.⁴⁹ Neither that proposal nor other NASUCA suggestions -- that competitive ETCs be required to demonstrate the need for high-cost support and be subject to benchmark high cost criteria -- were among the "numerous factors" mentioned in *Virginia Cellular*.⁵⁰ It would be discriminatory for the Bureau to impose a higher burden on ALLTEL than it imposed on other wireless carriers awarded ETC status.⁵¹

V. CONCLUSION

NASUCA's, OPASTCO's, and Verizon's procedural, policy and factual arguments raised against ALLTEL's Petitions are little more than anticompetitive attempts to deny universal service support to carriers that threaten the ILECs' market dominance. The Commission should

⁴⁹ ALLTEL already has signed CTIA's Consumer Code for Wireless Service, which includes provisions concerning advertising disclosures, ready access to customer service and the availability of coverage maps to consumers. A copy of and further information concerning the Code is available at <http://www.wow-com.com/consumer/issues/articles.cfm?id=1295>.

⁵⁰ *Id.* at ¶ 4.

⁵¹ See e.g., *RCC Holdings*, 17 FCC Rcd at 23532; *Cellular South*, 17 FCC Rcd at 24393; *Farmers Cellular Telephone, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, 18 FCC Rcd 3848 (2003); see also *Sharron Motor Lines, Inc. v. United States*, 633 F.2d 1115, 1117 (5th Cir. 1981) (quoting *Mary Carter Paint Co. v. FTC*, 333 F.2d 654, 660 (5th Cir. 1964) (Brown, J., concurring), *rev'd on other grounds*, 382 U.S. 46 (1965) ("*Mary Carter Paint*") ("There may not be a rule for Monday, another for Tuesday, a rule for general application, but denied outright in a specific case.")).

once again reject these recycled arguments and expeditiously grant ALLTEL ETC status in North Carolina and Georgia.

Respectfully submitted,

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January 26, 2004

CERTIFICATE OF SERVICE

I, Theresa Rollins, do hereby certify that I have on this 26th day of January, 2004, had copies of the foregoing **REPLY COMMENTS OF ALLTEL COMMUNICATIONS, INC.** delivered to the following via First Class Mail or electronic mail(*), as indicated:

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